

BOOK REVIEWS

The Nuremberg Military Tribunals and the Origins of International Criminal Law. By Kevin Jon Heller. Oxford; New York: Oxford University Press, 2011. Pp. xviii, 509. ISBN: 978-0-19-955431-7. US\$135.00.

After Germany's surrender near the end of World War II, the Allies prosecuted some of the high-profile perpetrators of Nazi war crimes and crimes against humanity. The most well known of these trials was the trial prosecuted by Justice Robert Jackson before the International Military Tribunal (IMT). After the IMT trial, the Allies agreed that each Ally would prosecute alleged criminals within their zone of occupation. The United States then established the Nuremberg Military Tribunals (NMTs) to prosecute Nazi defendants in the American zone. This book is a comprehensive legal account of the NMTs' history, proceedings, and influence on the development of international criminal law.

The author, Jon Heller, considers the NMTs to have had three primary purposes: to bring Nazi war criminals to justice; to fully document the atrocities committed by the German government, military, and industrialists; and to persuade the German people of the terrible reality of those atrocities. Heller concludes, with ample support, that the tribunals were partially successful at obtaining justice, very successful at documenting Nazi crimes, but a complete failure at convincing the occupied German people.

This book is a work of both law and history, but the focus is on the law. Heller thoroughly reviews the events and decisions leading up to the creation of the NMTs, and primary documents are heavily cited throughout the text. However, Heller generally chooses to recite only facts that are needed to discuss questions of law that faced the tribunals (chapter 4 provides a brief summary of each of the twelve trials). Thus, the book does not provide a detailed narrative describing the alleged crimes and courtroom proceedings. Instead, Heller discusses different genres of legal issues, such as evidence, elements of war crimes, defenses, and sentencing. He then selects cases that confronted each legal question and discusses how the tribunals decided (sometimes reaching divergent results). This organization excels at parsing out each legal question and filtering out information irrelevant to each individual question. For readers without deep knowledge of the details of the Nazi atrocities, a source providing a historical account of the crimes would be a valuable supplement to Heller's book.

The legal questions the NMTs considered were at times abstract (are the tribunals American or international courts?) and at others very subjective

(did the commander know an order was a war crime? If so, should he be acquitted or merely receive a lighter sentence?). Heller ably provides lucid explanations for tribunals' decisions and reasoning. This is no easy task, because each tribunal was independent and had three judges. Controversial questions resulted in conflicting rulings and dissenting opinions.

While the NMTs resulted in a voluminous record of war crimes and crimes against humanity, the German people regarded the trials as the justice of illegitimate victors. Heller regards the tribunals as generally fair, though some industrial defendants were wrongfully acquitted. Inadequate funding and time prevented the prosecution of many officials who deserved to be tried. Cold War politics motivated the early release of most of the defendants (defendants given life sentences served no more than ten years in prison).

Despite these shortcomings, the NMTs had great influence on later developments in international criminal law. In chapter 16, Heller shows how international, regional, and national criminal courts cite NMT decisions for ascertaining customary international law, albeit incorrectly at times. For scholars of legal history and international criminal law, Heller's book will surely be an important work, and libraries supporting research in these specialties should seriously consider adding it to their collections.

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